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ATTORNEY FOR RALPH LYLE CRUM

**UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF TEXAS  
AMARILLO DIVISION**

IN RE:	§	Case No. 08-20297-RLJ-7
	§	
RALPH LYLE CRUM,	§	Chapter 07
Debtor.	§	
	§	

**APPELLANT'S STATEMENT OF THE ISSUES ON APPEAL**

Appellant, Ralph Lyle Crum, files his Statement of the Issues on Appeal below.

Debtor contends that the primary issues of appeal are:

1. Whether the trial court's application of *In re Zibman*, 268 F.3d 298 (5<sup>th</sup> Cir. 2001) has any application to Debtor's claim under the "snap shot rule" that \$254,902.04 of the Debtor's funds which were withdrawn from a qualified, IRA (hereafter "IRA funds") less than 60 days prior to filing bankruptcy, are exempt from claims against the estate under 11 U.S.C. Section 522(d)(12), and other statutes and common law relied upon by Debtor.

2. Whether Debtor was forced to an election of exemptions to protect the IRA funds under 11 U.S.C. Section 522b(2) and (3), and/or Section 522(d) as decided by the trial court.

3. Whether the 60 day "tolling rule" which applies to the reinvestment of IRA funds in order to maintain their exempt status, after withdrawal from a qualified IRA, must be strictly applied, where as here, (i) the Trustee objected to Debtor's exemption of the IRA funds, claiming same as

an asset of the estate, and thereby effectively prohibited Debtor's reinvestment of the funds within the necessary 60 day period; (ii) the fund manager misrepresented the IRA status of the funds to Debtor, after Debtor attempted to reinvest the withdrawn funds less than 60 days prior to bankruptcy.

4. Whether all statutes and case law claimed by Debtor as a basis to exempt the withdrawn IRA funds were properly overruled by the trial court.

5. Whether the trial court's broad denial of each and every statutory and common law basis asserted by Debtor that the IRA funds were exempt, without providing any factual or legal basis therefore, is reversible error.

6. Whether the Trustee's or Creditor Randi Crum's failure to object to each statutory and common law basis asserted by Debtor that the IRA funds were exempt, constitutes a waiver, and therefore the IRA funds are exempt as a matter of law; and despite the Trustee's and Creditor Randi Crum's objections to exemptions on other grounds, the trial court should have sustained Debtor's exemptions, thereby resulting in reversible error.

7. Whether the trial court's conclusion that the IRA funds are not exempt, and are property of the bankruptcy estate is reversible error.

8. Whether it was inequitable for the trial court to disallow his exemption claim to the IRA funds under the stipulated facts.

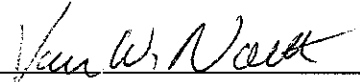
9. Whether the trial court's ruling that Debtor had a right and duty to request tolling of the 60 day deadline to roll over the IRA funds, after Debtor filed bankruptcy and the Trustee claimed the funds for the estate is reversible error.

10. Whether the trial court's ruling that the \$11,000.00 of Fidelity IRA funds paid to a third party, Trudy-Herrmann-Hall prior to bankruptcy, lost their exempt status is erroneous as a

matter of law; or in the alternative, does the trial court's ruling that such funds "are *not* property of the estate" effectively prevent seizure of those funds by the Trustee.

Respectfully submitted,

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*Attorney for Debtor*

**CERTIFICATE OF SERVICE**

The undersigned certifies that he has on the date shown below transmitted a true copy of the foregoing document to the following parties in interest by electronic notification via the court's electronic case filing system or by regular mail on the 7<sup>th</sup> day of May, 2009:

Chapter 7 Trustee  
Mr. Kent Ries,  
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Amarillo, Texas 79101

U.S. Trustee  
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Attorney for Randi Crum  
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